



Paper No. 28

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In re Application of	:	<b>OFFICE OF PETITIONS</b>
William Bromley et al	:	
Application No. 09/640,785	:	<b>ON PETITION</b>
Filed: August 18, 2000	:	
Attorney Docket No. 1957.0010000	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 3, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed April 28, 2003, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). Since the amendment submitted does not *prima facie* placing the application in condition for allowance, no Notice of Appeal (and appeal fee), or a request for continuing application under 37 CFR 1.114 was timely filed. Extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 29, 2003.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, the petition for a three-month extension of time filed on December 3, 2003 is unnecessary and no fee has been charged.

Pursuant to petitioner's authorization, Deposit Account No. 13-2490 was charged a total of \$2,100.00 -- \$1,330.00 for the petition to revive an unintentionally abandoned application and \$770.00 for the RCE.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to Technology Center AU 3661 for processing of the request for continued examination (RCE) under 37 CFR 1.114.



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